

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

JASON JENSEN,)	
)	
Plaintiff,)	
)	Cause No.: 6:22-CV-03140-BCW
vs.)	
)	
)	
DAVID R. GAMACHE, et al.)	
)	
)	
Defendant.)	

**RESPONSE IN OPPOSITION TO “PLAINTIFF’S NOTICE OF OBJECTIONS, MOTION TO
VACATE, MOTION FOR DEFAULT, HEARING”**

COMES NOW Defendant David Gamache (“Defendant Gamache”) and for his Response in Opposition to “Plaintiff’s Notice of Objections, Motion to Vacate, Motion for Default, Hearing”, states as follows:

1. On November 21, 2022, Defendant filed his Request for Extension of Time up to and including December 21, 2022 to file responsive pleadings to Plaintiff Jason Jensen’s Amended Complaint. (Doc. 14)
2. On November 21, 2022, this Court granted Defendant Gamache’s Motion for Extension of Time to file Responsive Pleadings stating, “ORDERED Defendant David R. Gamache’s Motion for Extension of Time (Doc. #14) is GRANTED. Defendant Gamache is granted leave to answer or otherwise respond to the complaint on or before December 21, 2022. Motions of this type are properly filed at least three days before the filing deadline established by rule or Court Order” (“Order”).
3. In response to this Court’s Order granting Defendant Gamache’s Motion for Extension of Time, Plaintiff Jason Jensen (“Plaintiff”) filed his “Notice of Objections, Motion to Vacate, Motion for Default, Hearing” (“Motion”) (Doc. 17).

4. In his Motion Plaintiff, “hereby calls for a hearing”, “requests the ORDER dated 11/21/22 be vacated under Rule 52(a)”, and requests “the entering of Default Judgment against Defendant GAMACHE”. (Doc. 17).

5. This Court has the power to grant an extension of time for filing responsive pleadings. *Parks v. Thompson*, 363 Mo. 791, 795, 253 S.W.2d 796, 796 (1952).

6. Defendant Gamache filed his Request for Extension of Time in good faith, not intending to hinder or delay this action, and not to prejudice the Plaintiff.

7. Contrary to Plaintiff’s argument, this Court’s Order Granting Defendant Gamache’s Request for Extension of Time is not erroneous, is well within the Court’s discretion and will not prejudice Plaintiff. *Id.*

8. This Court is able modify deadlines as part of its inherent power to manage and control its docket. *Cottrell v. Duke*, 737 F.3d 1238, 1248 (8th Cir. 2013) (internal citations omitted).

9. As this Court’s Order granting Defendant Gamache’s Motion for Extension of Time is well within the Court’s discretion and is clearly not erroneous, Plaintiff’s “Jensen’s “Notice of Objections, Motion to Vacate, Motion for Default, Hearing” should be denied.

WHEREFORE, Defendant David R. Gamache respectfully asks this Court to deny Plaintiff Jason Jensen’s “Notice of Objections, Motion to Vacate, Motion for Default, Hearing”, and grant any further relief this Court deems just and proper.

Respectfully submitted,

FRANKEL, RUBIN, KLEIN,
PAYNE & PUDLOWSKI, P.C.

By: /s/ Mayer S. Klein

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system this 29th day of November, 2022:

/S Mayer S. Klein

Mayer S. Klein